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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 -----x

5 DAOL REXMARK UNION STATION,  
6 LLC., ET AL.,

7 Plaintiffs,

8 v.

22 CV 06649

9 UNION STATION SOLE MEMBER,  
10 LLC,

11 Defendant.

Conference

12 -----x

13 New York, N.Y.  
14 August 21, 2023  
15 4:00 p.m.

16 Before:

17 HON. GREGORY H. WOODS,

18 District Judge

19 APPEARANCES

20 MORRISON, COHEN, LLP  
21 Attorneys for Plaintiffs  
22 BY: RICHARD HONG  
23 MAHNOOR MISBAH

24 KASOWITZ, BENSON, TORRES, LLP  
25 Attorneys for Defendant  
BY: DAVID ROSS  
DAVID MARK

1 (Case called; appearances noted)

2 THE COURT: Very good. Thank you.

3 So let me begin with just a few comments about the  
4 rules I'd like the parties to follow during this conference.  
5 The first thing that I'd like to do is just to remind you that  
6 this is a public proceeding, and that as a result, any member  
7 of the public or press is welcome on the call.

8 Second, please keep your lines on mute at all times,  
9 except when you're intentionally speaking to me or to the  
10 representative of another party. Next, please keep your lines  
11 on mute at all times, unless you're speaking to me -- I'm  
12 sorry, and you should state your name each time you speak.

13 Please abide by instructions from our court reporter  
14 that are designed to help the court reporter do her job.

15 Finally, I'm ordering that there be no recording or  
16 rebroadcast of all or any portion of the conference today.

17 So with that out of the way, let's turn to the  
18 substance of today's proceeding. Counsel, I scheduled the  
19 conference to discuss the discovery dispute that's laid out in  
20 the letter submitted to me on the 11th. Let me hear from each  
21 of you.

22 I'll start with counsel for defendant. I've read the  
23 letter, but I'll hear first from you if I can.

24 MR. ROSS: Thank you, your Honor. David Ross from  
25 Kasowitz, Benson, Torres.

1           Your Honor, we seek to depose Mr. Eum, because he is a  
2       percipient witness who has personal knowledge about the matters  
3       that are the subject of discovery in this case, both with  
4       respect to plaintiffs' claims and with respect to defendant's  
5       counterclaims. Mr. Eum is an agent of one or more of the  
6       plaintiff entities who brought suit in this case. He is  
7       apparently a resident in Korea. He was copied or is the author  
8       or recipient of 25 percent or one-quarter of the emails and  
9       documents that were produced by the plaintiffs in this case.

10           We did not know of the significance of his role until  
11       we read their documents. It appears from the documents that he  
12       is not only a primary representative of a party in this case,  
13       but he also had participated directly in meetings with our  
14       client regarding Union Station, participated personally in  
15       communications with Amtrak in this case regarding Union  
16       Station, participated directly in communications with S.L.  
17       Green, a special servicer entity, with respect to the mortgage  
18       involved in the Union Station in this case, participated  
19       directly in communicating strategy with Mr. Rebibo and others  
20       on their side of the ledger, made decisions with respect to the  
21       course of the foreclosure and other proceedings in this case,  
22       engaged directly in setting strategy based upon emails and  
23       documents that we have of text messages that we have.

24           So, no. 1, he seems to be in all respects a classic  
25       percipient knowledgeable witness. That's no. 1.

1           No. 2, we have advised the other side, plaintiffs'  
2 counsel, that we're prepared to examine him remotely, so he  
3 does not have to travel from Korea tomorrow to here, although  
4 he is welcome to do so if he is going to be here or wants to be  
5 here. But, in any event, so as to avoid any claim of burden,  
6 we have said that we would take his deposition remotely.

7           No. 3, there's a claim that the so-called Apex issues  
8 are raised by our attempting -- our seeking to depose this man  
9 and, respectfully, we don't think that's correct at all. As we  
10 understand the Apex cases, they typically address a situation  
11 where a senior executive is sought to be deposed where they did  
12 not personally participate in the underlying facts of the  
13 matter, but because of their position, a party, nevertheless,  
14 seeks to take them.

15           In this particular case, as I've illustrated earlier,  
16 Mr. Eum, who is directly involved in a large number of emails  
17 and other communications, so the Apex rules we don't -- or Apex  
18 case law we don't think apply at all. Typically speaking, a  
19 party that is seeking to resist a deposition has a very high  
20 burden of demonstrating why it's inappropriate to depose a  
21 witness, and that, for example, in the *Speedmark v. Federated*  
22 *Department Stores* case at 176 F.R.D. 116, 118, a Southern  
23 District of New York case from 1997, stands for the proposition  
24 one should not bar a party -- well, that barring a party from  
25 taking a deposition, "is an extraordinary form of relief," and

1 is only imposed if the moving party carries their heavy burden  
2 of demonstrating, "that the proposed deponent has nothing to  
3 contribute."

4 In this particular case, this man clearly  
5 participated, and has plenty to contribute, assuming his memory  
6 is working. So we think we have a right to take his  
7 deposition.

8 The other idea I think that's put forth rather weakly  
9 in my humble opinion by the plaintiff is the idea that because  
10 they have told us that we should depose Mr. Rebibo, a  
11 representative of Rexmark, that everything and anything that  
12 Mr. Eum would testify to is duplicative, unnecessary, and that  
13 we're not entitled to it. And the claim is that while he was  
14 copied on the same emails as Mr. Rebibo, and he attended some  
15 of the meetings, or his information is derivative of what  
16 Mr. Rebibo knows, from my experience, Judge, it's important to  
17 depose people who have personal knowledge who may have attended  
18 the same meeting, or had conversations with the other decision  
19 makers on a matter.

20 This is a case where we are taking from the  
21 plaintiffs' side only one other deposition, Mr. Rebibo, in his  
22 personal capacity and as a 30(b)(6) witness. So here we're  
23 seeking to take another person, who was a decision maker and  
24 personally participated directly in meetings with my client,  
25 the defendant, with Amtrak, and has direct communications that

1 even Mr. Rebibo was not part of with, for example, SL Green.  
2 So the idea that we would be precluded from deposing a second  
3 person in a case involving \$700 million or \$500 million, is a  
4 very large number, Judge. A lot of money is at stake. And  
5 we've not burdened anybody in any respect with discovery in a  
6 case of this size.

7 So for all those reasons, Judge, I think that the  
8 application put forth before you to seek to block the  
9 deposition is not well taken, and should be denied, your Honor.  
10 Thank you.

11 THE COURT: Thank you.

12 Counsel for plaintiffs.

13 MR. HONG: Thank you, your Honor.

14 Thank you for giving us an opportunity to take  
15 Mr. Eum's deposition. Mr. Eum, as your Honor is aware, is a  
16 high level manager of Daol AMC, Asset Management Company, based  
17 in Seoul, South Korea. He is not a key witness in this case.  
18 He has no key knowledge of the facts and circumstances at issue  
19 in this case. That is the reason why none of the parties  
20 identified Mr. Eum as an individual who would likely have  
21 discoverable information in any of the Rule 26 initial  
22 disclosures.

23 The fact that document productions show that he is  
24 copied or sent letters or emails on things does not make him  
25 suddenly a key witness in this matter. Your Honor, this is a

1 fishing expedition from the plaintiffs' perspective. Mr. Eum,  
2 and we've spoken to him about this, does not have any unique  
3 personal knowledge of the relevant events of it. And there's a  
4 reason why Mr. Eum does not. Because all of the conduct and  
5 events alleged in the complaint occurred in the United States.  
6 And if you were to look at the complaint, you will not find  
7 anything related to Mr. Eum.

8 By contrast, Mr. Michael Rebibo, the U.S. agent, who  
9 was Mr. Eum's counterpart in the United States, is the focus of  
10 the affirmative action -- affirmative defenses. Virtually  
11 everything relating to how Rex -- things went wrong is related  
12 to what Mr. Rebibo allegedly did or did not do. There's  
13 nothing like that with Mr. Eum. Mr. Eum sat in Korea. He took  
14 phone calls from Mr. Rebibo. He read emails that were sent to  
15 him, that Mr. Rebibo was also copied on, and they discussed  
16 issues, as Mr. Eum was the Korean agent. But the fact that  
17 there was some discussions with Mr. Rebibo does not make him a  
18 key witness in this case by any means.

19 Mr. Rebibo was the U.S. agent. He made the decisions  
20 in the United States. The case is about what happened in the  
21 United States, not what happened in Seoul, South Korea. I am  
22 not aware, we are not aware of a single document that just went  
23 to Mr. Eum alone without being copied to Mr. Rebibo. We are  
24 not aware of anything that Mr. Eum said relating to the U.S.  
25 conduct that would be relevant to that.

1 I want to also make sure that I address that there is  
2 going -- that the purpose for this deposition seems to be one  
3 of if you want to boil it down, to test Mr. Eum's knowledge of  
4 events. While his knowledge is derivative, his knowledge is  
5 fear based. He relied on Mr. Rebibo for what is going on, and  
6 the discussion that Mr. Rebibo and Mr. Eum had was one where  
7 Mr. Rebibo was accounting or reporting what had happened, and  
8 making a recommendation of how they should proceed. And  
9 Mr. Eum agreeing to do so. That's the extent of the decisions  
10 that Mr. Rebibo was making. He was completely relying on  
11 Mr. Rebibo for -- Mr. Eum was completely relying on Mr. Rebibo  
12 to do what Mr. Rebibo, the U.S. partner, was going to do.

13 And if one was to take Mr. Rebibo's deposition, that's  
14 the testimony you would get. No more than that. The idea that  
15 there would be anything relevant in this -- and the only other  
16 comment that counsel makes is this is a big case, and only one  
17 witness is being called on. There are reasons for that. The  
18 first reason is Mr. Rebibo was in charge. He was a central,  
19 key witness. He's giving two depositions in one. He's giving  
20 a 30(b)(6) deposition, which is binding on the plaintiff, and  
21 he's a representative of that, because he knows all the  
22 relevant information.

23 He's also provided a personal capacity deposition at  
24 the same time. So there are actually, technically speaking,  
25 two depositions that the defendant is taking. And the reason



1 why he is the one who's giving it is because, as I mentioned,  
2 he is the person who is most knowledgeable with that  
3 information. The fact that this case is several hundred  
4 million dollars, was 700 -- doesn't sort of span the discovery  
5 rules to test the knowledge of a witness, and, essentially,  
6 undergo a fishing expedition of some sort on this.

7 Your Honor, we recognize that precluding a deposition  
8 is not an usual -- is an unusual event, but the circumstances  
9 in this case, your Honor, clearly call for precluding this  
10 deposition, because this deposition is going to be based on  
11 essentially Mr. Eum said, I had a conversation with Mr. Rebibo,  
12 and I said, okay, or he suggested this and I said yes, to the  
13 extent that Mr. Eum remembers the relevant events that are --  
14 when he's questioned on this.

15 So when you look at the balance of hardship versus  
16 benefit, which is what this Court would have to look at, the  
17 hardship is much greater for requiring someone who lives in  
18 South Korea to participate, to prepare for a deposition that he  
19 has really, quite frankly, marginal tangential knowledge. And,  
20 you know, while I can't speak to your Honor right now on this,  
21 but if we were to have a trial tomorrow, he's likely not going  
22 to be a witness for the plaintiff. So that's at least my  
23 personal view of it. So, what -- you know, it is to us a  
24 complete waste of time to engage in this deposition.

25 I wanted to address one other -- a couple of other

1 points that counsel mentioned. The key issue that is remaining  
2 in this case is the propriety of the foreclosure sale. That  
3 occurred in the United States. Mr. Eum had nothing to do with  
4 that.

5 The other issues that are remaining are affirmative  
6 defenses relating to whether or not Mr. Rebibo somehow  
7 interfered with the management of the Union Station, and all  
8 things related to whether or not we, the plaintiff, somehow  
9 acted in -- had committed some sort of inequitable misconduct.  
10 That's all relating to Mr. Rebibo's management. That had  
11 nothing to do with Mr. Eum.

12 I want to strongly object to the defendant's position  
13 that Mr. Eum has percipient knowledge of it. His percipient  
14 knowledge is a derivative knowledge on this, and, quite  
15 frankly, he is going to have -- and if this deposition were to  
16 go on for however long, the likely answer to many questions are  
17 that he doesn't recall, and that he relied on Mr. Rebibo. He  
18 has really no unique, personal knowledge of the events in  
19 question, your Honor. So for all those reasons, while we  
20 understand that this is a high burden on this -- in this case,  
21 the defendant will get all the information they need for courts  
22 -- for any kind of court proceeding or motion practice through  
23 Mr. Rebibo.

24 Mr. Eum is not a key witness. He does not have any  
25 unique personal knowledge that's not cumulative of Mr. Rebibo.

1 For all those reasons, we believe that this deposition should  
2 not go forward.

3 THE COURT: Thank you.

4 Counsel, the defendant's lawyers offered to conduct  
5 the deposition by video conference. How does that affect you  
6 regarding the burden associated with the deposition?

7 MR. HONG: So it does lessen the burden obviously a  
8 little, the travel part of it, but we still have to prepare,  
9 Mr. Eum still has to engage in participation of events and so  
10 forth on that. I think that is going to lessen the burden a  
11 little bit, but not substantially.

12 Your Honor, I think and I understand maybe some desire  
13 to allow some testimony to occur on this, but I think this is a  
14 case where really Mr. Eum is on the sidelines so to speak. And  
15 he's not a particular witness and -- you know, I think this is  
16 one of those cases, whether it's done by Zoom or in person, it  
17 continues to be a substantial burden.

18 THE COURT: Thank you.

19 Counsel, in their description of the facts of the  
20 case, counsel for defendants described Mr. Eum as having been  
21 in meetings, communicated with Amtrak, having been a direct  
22 participant in conferences with SL Green. Do you take issue  
23 with those aspects of the defendant's description of Mr. Eum's  
24 participation in the events at issue here, separate and apart  
25 from email correspondence and his communications with

1 Mr. Rebibo?

2 MR. HONG: So, your Honor, Mr. Eum did participate in  
3 some meetings, but so did about ten other people, and so did  
4 Mr. Rebibo. The fact that he was one of the participants --  
5 he's a Korean agent. He's a Korean representative. So to some  
6 extent, he wanted to see what the Union Station asset was going  
7 to be about. But the fact that he was merely present for the  
8 event, for a meeting, doesn't mean that a person has any  
9 knowledge or any deep knowledge or any unique knowledge of  
10 these events.

11 He was there. At the end of the day, whether he  
12 attended a meeting or not, he went back to talk to Mr. Rebibo,  
13 and Mr. Rebibo provided his advice and counsel. And that's how  
14 decisions were made.

15 THE COURT: Thank you.

16 Counsel for defendants, any rebuttal?

17 MR. ROSS: Yes, your Honor. David Ross. Briefly.

18 Number one, there is no requirement, in order to  
19 depose a witness, that they have unique knowledge. Unique was  
20 the word that Mr. Hong used. I disagree with him. I don't  
21 think that that is part of any standard.

22 Second, he said that the witness had to be key in  
23 order for them to be deposed. I also don't think there is any  
24 requirement that they be a key witness.

25 Third, he suggested that Mr. Eum doesn't have any

1 relevant knowledge, because Mr. Rebibo knows the same  
2 information. I don't think that that goes to relevance at all.  
3 He's merely saying he thinks it is similar knowledge, but  
4 clearly there is no objection to our deposing Mr. Rebibo about  
5 these very same topics.

6 So, obviously, the information is relevant. It is  
7 discoverable. It is entirely normal to depose multiple  
8 witnesses who attended important meetings or who participated  
9 in setting strategy. Looking at a document produced by the  
10 other side, Bates stamped KTB0004685, and it is an e-mail, it  
11 is a text message string between Mr. Rebibo and Mr. Eum in  
12 which they are going back and forth discussing the strategy  
13 regarding the foreclosure.

14 Obviously Mr. Eum participated in setting the strategy  
15 from Korea. The argument that has been made, that he was a  
16 senior witness, and that he doesn't know anything, it seems to  
17 me that since it's he who was directing the investment from  
18 Korea, and he who was giving advice and strategy discussions  
19 with Mr. Rebibo about what should be done, that -- the fact  
20 that Mr. Rebibo may have carried out what he was directed to do  
21 does not make the person who is the decision maker or the  
22 director any less important as a witness.

23 So it seems to me -- I mean, to use perhaps a simple  
24 analogy, am I only entitled to take the puppet but not the  
25 puppeteer? I think I'm entitled to take both, particularly

1 where it is not overly burdensome, and where all the evidence  
2 indicates the participation of both.

3 So for those reasons, your Honor, again, I submit that  
4 this is just an ordinary, run of the course deposition in a  
5 case involving a large amount of money, and a relatively  
6 controlled burden, which a plaintiff would have to put up with  
7 if they want to seek rights with respect to hundreds of  
8 millions of dollars.

9 Thank you.

10 MR. HONG: Your Honor, may I be heard briefly?

11 THE COURT: Yes. Counsel, please go ahead.

12 MR. HONG: So the text that Mr. Ross is talking about  
13 is a conversation between Mr. Rebibo and Mr. Eum talking about  
14 various events, and if you had the text in front of you, you  
15 will see that after we discuss -- Mr. Rebibo makes the  
16 recommendation, and Mr. Eum goes along with that, okay? And  
17 that is how the relationship was. Mr. Rebibo would talk to his  
18 Korean counterpart to do this, to do that.

19 Now, I think the reason why I spent a fair amount of  
20 talking about the key -- whether the importance, the  
21 significance, the meaningfulness of this deposition is because  
22 the defendant has made Mr. Eum into a paramount -- a critical  
23 witness, issue dispositive witness, and we're saying, no, he's  
24 not -- he doesn't have such information. They would be deeply  
25 disappointed with the testimony there. And if the purpose is

1 to get a thousand I don't recalls, I don't knows, and Mr. Eum  
2 says, I relied on Mr. Rebibo, so be it. That's the exercise  
3 they want to go through. And if that is an exercise they want  
4 to go through, I would -- and if this Court were inclined to  
5 provide some deposition -- this deposition, which we think is  
6 unnecessary, we would ask that this deposition be, no. 1, set  
7 after Mr. Rebibo's 30(b)(6) and personal deposition -- personal  
8 or capacity deposition to determine whether or not it is  
9 necessary at all. And September 21 is the date that we have  
10 been discussing for Mr. Rebibo's deposition.

11 No. 2, set a strict time limit of one hour only to  
12 test the knowledge, because we believe that within an hour,  
13 counsel will recognize that, in fact, Mr. Eum does not have any  
14 unique, personal, non-cumulative knowledge.

15 And, no. 3, obviously we discussed then the setting of  
16 the Zoom only, not requiring that.

17 And, no. 4, we respectfully ask that the defendant  
18 provide to us five business days before the deposition the  
19 topics to be addressed, so we can try to prepare Mr. Eum for  
20 this deposition, although, quite frankly, we're not sure  
21 whether or not we can do so given what we understand the scope  
22 of the responsibility and the involvement of Mr. Eum is  
23 regarding the relevant events that occurred in the United  
24 States.

25 So those are the requests that we would make, if the

1 Court were inclined to provide any type of deposition for  
2 Mr. Eum.

3 THE COURT: Good. Thank you very much, counsel.

4 Thank you both for your arguments. They're strong,  
5 and compelling.

6 Let me just say a few brief words. First off, the  
7 information sought from Mr. Eum I understand to indisputably be  
8 relevant here, the testimony that's been described as seeking  
9 information that's relevant under the broad scope permitted  
10 under the Federal Rules, as counsel have noted.

11 The deposition of Mr. Rebibo is being taken without  
12 objection as to overlapping subject matter. So, again, I don't  
13 understand the relevance of the testimony sought to be  
14 contested. So the testimony is relevant.

15 There are limitations on the scope of discovery that  
16 can be taken under the rules. Even with respect to relevant  
17 information, the Court is required to take into account the  
18 proportionality of the discovery, taking into account the  
19 importance of the issues at stake, the amount in controversy,  
20 and the parties' relevant access to the information, the  
21 parties' resources, the importance of the discovery resolving  
22 the issues, and whether the burden or the expense of the  
23 proposed discovery outweighs the likely benefit of that  
24 discovery.

25 Similarly, as the parties know, a party may seek a



1 protective order with respect to the discovery of information  
2 under Rule 26(c), and the Court can, for good cause shown,  
3 issue an order to protect a person or party from annoyance,  
4 embarrassment, depression, or undue burden or expense by, among  
5 other things, forbidding discovery.

6 I should also note that under certain circumstances,  
7 the Court must limit the frequency or extent of discovery if it  
8 determines that the discovery sought is unreasonably  
9 cumulative, or duplicative, or can be obtained from some other  
10 source that's more convenient, less burdensome, or less  
11 expensive. That requirement is embedded in Federal Rule of  
12 Civil Procedure 26(d)(2)(C).

13 So having considered all of those factors, I'm not  
14 going to prohibit the deposition of Mr. Eum. To the extent the  
15 application here is for the issuance of a protective order to  
16 deny the opportunity to depose him, I do not find that  
17 plaintiffs have made a sufficient showing of good cause in  
18 order to justify the issuance of such an order.

19 I'll describe just briefly some of the considerations  
20 that go into my determination regarding this issue. I think  
21 that, largely, the defendant's lawyer has properly framed the  
22 issue here, not to the expense of counsel for plaintiffs'  
23 arguments, which, again, have been compelling.

24 I note, at the outset, that there are a number of  
25 factors that the Court should consider here. I appreciate that

1 Mr. Eum is a relatively highly placed executive. However,  
2 highly placed executives are not immune from discovery.  
3 However, depositions of high level corporate executives may be  
4 duplicative in the -- or burdensome where the person sought to  
5 be deposed has no personal knowledge of the event in dispute.  
6 And courts recognize that where the deposition of a high  
7 ranking corporate executive is sought, it might be served or  
8 used as an instrument for harassment. As a result, courts have  
9 considered, as counsel for the plaintiffs identified, issues  
10 such as the likelihood that the individual possesses relevant  
11 information, or whether another source could provide identical  
12 information. Other courts have considered whether the witness  
13 has some unique knowledge that's relevant to the action. I  
14 expect that that's the source of the argument, that Mr. Eum  
15 does not have unique knowledge. The case law supports that as  
16 a factor for the Court to consider in evaluating whether a  
17 deposition of a high level executive should take place.

18 It's clearly established that the mere fact that an  
19 executive has a busy schedule or claims no unique knowledge of  
20 relevant facts, however, is not sufficient to foreclose  
21 otherwise proper discovery. See, for example, *Hallmark*  
22 *Licensing, LLC v. Dickens Inc.*, 2018 Westlaw 6573435, at \*4. I  
23 think that this case fits into that category.

24 Here, counsel for defendants have proffered that  
25 Mr. Eum does have knowledge of the -- personal knowledge of the

1 relevant facts. They proffered that he was copied on, or the  
2 offer of one quarter of the documents provided by the  
3 plaintiffs -- that he was involved in meetings with the client,  
4 that he had communicated with Amtrak, that he was a direct  
5 participant in conference with SL Green, that he was in direct  
6 discussions with Mr. Rebibo and others regarding the  
7 foreclosure, and that he was involved in setting the strategy.

8 In sum, defendants assert that Mr. Eum was a  
9 percipient witness, and that he provided advice regarding the  
10 conduct of others involved in the case. As a result, I  
11 understand that he does have knowledge of the facts at issue in  
12 the case as a percipient witness, and I believe that the  
13 defendants are entitled to probe that knowledge.

14 I agree that a witness need not be a key witness in  
15 order to be deposed, and here the plaintiff has not made a  
16 sufficient showing that the deposition would be unduly  
17 cumulative. I do not believe that it will be unduly burdensome  
18 either. Here the defendants have offered to conduct the  
19 deposition by remote means. Counsel for plaintiffs correctly  
20 concedes that that does ameliorate the burden associated with a  
21 New York based deposition.

22 So, in sum, I think that the proffer by defendants  
23 provides me with sufficient information to conclude that  
24 Mr. Eum has some personal, percipient knowledge of the facts  
25 involved in this case. The fact that there may be overlapping

1 testimony by Mr. Rebibo does not mean that he need not testify  
2 here. I understand that there are only two depositions being  
3 taken. I do not believe that, in the context of this case,  
4 that two depositions or three, counting one 30(b)(6) and/or one  
5 personal for Mr. Rebibo are disproportional to the needs of  
6 this large case, given the nature of the issues involved in the  
7 case.

8 So I'm not going to preclude the defendants from  
9 taking the deposition, understanding that the defendants and  
10 the plaintiffs will agree that the deposition should be taken  
11 by remote means. Now, I do want to say just briefly that it  
12 may be that the deposition will play out as counsel for  
13 plaintiff has suggested. Namely, it may be that Mr. Eum will  
14 not have direct, personal recall of all of the incidents about  
15 which he may be questioned, and that's fine. I don't discredit  
16 counsel's proffer, but I do believe that defendants are  
17 entitled to probe that.

18 With respect to the four requests made by counsel, in  
19 the event that I were not to grant or sustain the objection,  
20 and to grant a protective order, the third -- I understand the  
21 parties will agree that the deposition will be conducted by  
22 Zoom. I'll leave it to the parties to choose when best to  
23 schedule this deposition. I'm not going to take a position on  
24 that issue now. I can see real benefits potentially in  
25 deferring the deposition of Mr. Eum until after Mr. Rebibo's

1 for the reasons that counsel has described, but I do not direct  
2 that the parties schedule the depositions in any particular  
3 order. The rules state that there is no preferred order. I  
4 leave it to the parties to discuss that issue. I'm confident  
5 that counsel for defendants will take their own counsel if they  
6 believe that the deposition is not yielding useful information,  
7 and that they will use their client's time and their money  
8 well.

9 So I'm not going to set a specific limit on the  
10 duration of the deposition beyond that that's established in  
11 the rules by default. I'm not going to direct that the  
12 defendants provide a list of topics for discussion. This is an  
13 individual deposition, as I understand it, not a 30(b)(6)  
14 deposition.

15 Now, while I'm not going to direct that they do that,  
16 I would strongly encourage the parties to talk about what the  
17 anticipated scope of the deposition will be, if you would. It  
18 could be that that kind of conversation would allow Mr. Eum's  
19 memory to be better refreshed, and, therefore, have a more  
20 productive deposition. But, then again, I'm not going to  
21 direct the parties to come to any resolution with respect to  
22 that. I'll just encourage you to discuss the topics, so that  
23 you can make the best use of your respective time.

24 I think that's all that I have. Counsel, is there  
25 anything else that we need to take up here, starting with

1 counsel for plaintiff?

2 Counsel?

3 MR. HONG: No, your Honor. As I said, I think that --  
4 no, your Honor.

5 THE COURT: Thank you.

6 Counsel for defendant?

7 MR. ROSS: No, your Honor.

8 THE COURT: Very well. This proceeding is adjourned.

9 (Adjourned)

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